

RENDERED: NOVEMBER 10, 2005; 10:00 A.M.
NOT TO BE PUBLISHED

Commonwealth Of Kentucky
Court of Appeals

NO. 2004-CA-000940-MR

ANGIE WALKER

APPELLANT

v. APPEAL FROM FAYETTE CIRCUIT COURT
HONORABLE LAURANCE B. VANMETER, JUDGE
ACTION NO. 00-CI-03224

STEPHEN WALKER

APPELLEE

OPINION
AFFIRMING

** ** * * *

BEFORE: DYCHE AND GUIDUGLI, JUDGES; PAISLEY, SENIOR JUDGE.¹

DYCHE, JUDGE: Angie and Stephen Walker were married in Lexington, Kentucky, in 1984. Throughout the marriage Angie worked as a dental hygienist, and Stephen was a school teacher. The couple had no children. In September 2000 Angie filed for dissolution of the marriage. She appeals the Fayette Circuit

¹ Senior Judge Lewis G. Paisley sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and Kentucky Revised Statutes (KRS) 21.580.

Court's determination of certain aspects of the dissolution. We affirm.

Angie first questions the trial court's evaluation of the marital interest in the parties' home. Her arguments on appeal are that the trial court improperly assessed Stephen's nonmarital interest and that the lot and house should have been appraised separately. We have examined the record in its entirety and can find no fault with the trial court's resolution of this issue. Stephen was able to trace meticulously every element of his nonmarital interest (in particular the many and generous gifts from his parents to him alone) in the parties' home. As appellee states, "All documents contradict Angela's professed belief" that her in-laws gifted to both of them.

We thus cannot find that the trial court erred in its assessment of the marital interest in the real estate. KRS 403.190(2). See also Mullins v. Mullins, 797 S.W.2d 491 (Ky.App. 1990). Nor are we convinced that there was error in valuing the property as a whole, rather than separately as a lot and building.

Angie next takes issue with the allocation of the parties' pension plans. She insists that there was an inequitable division of their various accounts. Again the record supports the trial court's decision and we decline to disturb it. Angie cannot dispute that her social security

account should be considered in the division of the parties' pensions. The trial court found that Angie's monthly benefits would be comparable to those of Stephen's teacher retirement account, thus they offset each other. See KRS 161.700 and 403.190(4). Therefore, the accounts left for division were the parties' 401k accounts and Angie's TIAA account. Because the amount of Angie's benefits exceeded Stephen's by nearly six thousand dollars, the trial court credited Stephen the sum of \$2,972.71. We find no error in this division.

We are thirdly asked to address the valuation of Angie's vehicle. We agree with the trial court that Stephen's accurate tracing of the vehicle's nonmarital value was convincing. The court then took the percentage of that contribution and factored it into the current value of the vehicle before determining the value to each party. The record supports this evaluation.

Angie fourthly asserts that she is entitled to maintenance. The trial court found that she failed to meet the statutory criteria for a maintenance award. KRS 403.200. Angie does not persuade us otherwise. See Beckner v. Beckner, 903 S.W.2d 528, 530 (Ky.App. 1995) (citation omitted). Her position regarding her occupational disability is better addressed in a worker's compensation action.

We lastly consider the issue of attorney fees. The trial court awarded Angie \$7,500.00 toward her fees. She claims that this is an insufficient amount. We are unable to discern that the trial court abused its discretion. KRS 403.220; Hollingsworth v. Hollingsworth, 798 S.W.2d 145, 147-8 (Ky.App. 1990).

Stephen's motion to strike portions of Angie's brief is rendered moot. Accordingly, it is denied.

The judgment of the Fayette Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

John S. Roberts
Lexington, Kentucky

BRIEF FOR APPELLEE:

Neil E. Duncliffe
Georgetown, Kentucky